

REMARKS

Status of the Claims

Claims 1, 2, 4-6, and 8-37 remain pending in the application, Claims 3 and 7 having been previously cancelled. No amendments have been made to the claims in this response.

Claims Rejected under 35 U.S.C. § 103(a)

6 The Examiner has now rejected Claims 1-2, 4, 8-18, and 22-34 as unpatentable over U.S.
7 Patent No. 6,728,787 (Leigh) in view of U.S. Patent Application Publication No. US 2002/0067504
8 (Salgado et al., hereinafter referred to as “Salgado”). In regard to Claims 1 and 22-23, the Examiner
9 indicates that Leigh teaches all of the recitation of the claims, except for “requesting permission of a
10 user to communicate with the source,” and “upon receiving permission to do so from the user,
11 initiating the communication between the host device and the source to automatically obtain
12 information from the source pertaining to the peripheral device.” However, the Examiner relies upon
13 Salgado, which teaches that a user can modify “level of automation of the update process” (pg. 2,
14 para 25), and indicates that “the driver may be set to ask permission from the workstation user prior
15 to beginning the update process, prior to downloading a new version of the printer or prior to
16 installing a new version of the printer driver” (pg. 3, para 27). The Examiner concludes that it would
17 have been obvious to one of ordinary skill in the art to combine the teachings of Salgado with the
18 teachings of Leigh to automatically update a peripheral device driver, such as a printer driver, with
19 “minimal or no user interaction.” Each of the other claims in this group are rejected for reasons
20 similar to those set forth in the previous Office Action.

Claims 5-6, 19-21, and 35-37 are rejected as unpatentable over Leigh, in view of Salgado, and further in view of U.S. Patent No. 6,473,854 (Fleming). The Examiner relies upon Fleming for teaching “detecting a change in the number of peripheral devices connected to the host device to determine when the peripheral device is connected to the host device” (with reference to Fleming, col. 2, lines 1-10 and 18-23, and col. 4, lines 25-32).

The Examiner indicates that he has considered applicants' remark in the last response, but notes that they are moot in view of the new ground(s) of rejection.

Declaration under 37 C.F.R. § 1.131 Swearing Behind Salgado

29 Applicants again note that if independent Claims 1 and 23 are shown to be novel and non-
30 obvious over the cited art and therefore patentable, the dependent claims respectively depending

1 therefrom will inherently also be patentable over the cited art. The Examiner's current rejection of
2 independent Claims 1 and 23 relies upon the combination of Leigh and Salgado. However, included
3 herewith is a Section 131 Declaration that swears behind the Salgado reference. This Declaration
4 states that the inventors conceived of the subject matter described and claimed in the present
5 application before the December 6, 2000 filing date of the Salgado patent application. Further, the
6 Declaration makes clear that at least from a time just before the December 6, 2000 filing date of
7 Salgado, applicants and their patent counsel were diligent in preparing the present patent application,
8 which is a constructive reduction to practice of applicants' concept. Applicants' patent application
9 was filed on January 12, 2001, about five weeks after the filing date of Salgado. The relatively short
10 time (from just before the filing date of Salgado) required for the present application to be drafted and
11 filed clearly shows diligence by applicants in achieving the constructive reduction to practice.

12 Accordingly, Salgado is no longer citable as prior art against applicants' claims. Since the
13 Examiner has admitted that Leigh does not disclose all aspects recited in Claims 1 and 23, it will be
14 apparent that these two independent claims, and all of the dependent claims in the application are
15 patentable over Leigh.

16 In consideration of the preceding remarks, it will be apparent that this case is in condition for
17 allowance and should be passed to issue without further delay. In the event that any questions
18 remain, the Examiner is invited to telephone applicants' attorney at the number listed below.

19 Respectfully submitted,

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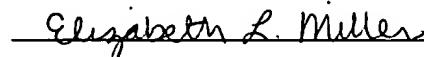
22 Ronald M. Anderson
23 Registration No. 28,829

24 RMA:elm

25 **MAILING CERTIFICATE**

26 I hereby certify that this correspondence is being deposited with the U.S. Postal Service in a sealed
envelope as first class mail with postage thereon fully prepaid addressed to: Commissioner for Patents,
27 Alexandria, VA 22313-1450, on January 6, 2006.

28 Date: January 6, 2006

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30 Enclosures

Declaration under 37 C.F.R. §1.131